

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Andrew W. Albstein,
individually, and on behalf of all
others similarly situated,
Plaintiff,

v.

Six Flags Entertainment Corporation
and **Lo-q Inc.,**
Defendants.

Docket No.
10 cv 05840 RJH

ECF Case

**ANSWER OF
DEFENDANT LO-Q, INC.**

Defendant Lo-Q, Inc., by and through its counsel, Answers the Plaintiff's
Complaint as follows:

PARTIES

1. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the information describing the Plaintiff. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the remaining allegations of this paragraph.
2. Defendant Lo-Q admits that the Plaintiff is bringing several causes of action, but denies the remaining allegations of this paragraph.
3. Defendant Lo-Q admits that the Plaintiff is bringing this action on his own behalf, but denies any allegations alleging that anyone is similarly situated. Defendant Lo-Q denies the remaining allegations of this paragraph.
4. Defendant Lo-Q is without sufficient knowledge or information to admit or

deny the allegations of this paragraph.

5. Defendant Lo-Q admits the allegations of this paragraph.

FACTS

6. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
7. Defendant Lo-Q admits the allegations of this paragraph.
8. Defendant Lo-Q admits the allegations of this paragraph.
9. Defendant Lo-Q denies the allegations of this paragraph.
10. Defendant Lo-Q denies the allegations of this paragraph.
11. Defendant Lo-Q admits that the costs for Flash Pass vary upon the degree of access and number of participants, and that the cost is in addition to normal Park fees. Defendant Lo-Q denies the remaining allegations of this paragraph.
12. Defendant Lo-Q admits the allegations of this paragraph.
13. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
14. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
15. Defendant Lo-Q admits that the Plaintiff paid for a Flash Pass, but is without sufficient knowledge or information to admit or deny the remaining allegations of this paragraph.

16. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
17. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the mental impressions of the group. Defendant Lo-Q denies that a request for Skull Mountain was entered at 5:00. Any remaining allegations of this paragraph are denied.
18. Defendant Lo-Q admits that the Flash Pass indicated a time for ride entry, but denies the remaining allegations of this paragraph.
19. Defendant Lo-Q admits that there is a designated entrance for Flash Pass patrons, and that for this ride, it is at, near or related to the exit door. Any remaining allegations of this paragraph are denied.
20. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
21. Defendant Lo-Q admits that "Chris" was the ride operator, and that the patrons presented themselves earlier than the time indicated for their admission. Defendant Lo-Q denies the remaining allegations of this paragraph.
22. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
23. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

24. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
25. Defendant Lo-Q denies the allegations of this paragraph.
26. Defendant Lo-Q denies the allegations of this paragraph.
27. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
28. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
29. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
30. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
31. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
32. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
33. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
34. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

35. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
36. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
37. Defendant Lo-Q admits that "Matt" is a Lo-Q employee. Lo-Q is without sufficient knowledge or information to admit or deny the remaining allegations of this paragraph.
38. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
39. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
40. Defendant Lo-Q admits that "David" is a Lo-Q employee. Lo-Q is without sufficient knowledge or information to admit or deny the remaining allegations of this paragraph.
41. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
42. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
43. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

- 44. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
- 45. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
- 46. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
- 47. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

**FIRST CAUSE OF ACTION
(Against Defendant Six Flags- False Imprisonment)**

48-56 Defendant Lo-Q need not respond to the allegations in Paragraphs 48-56 as they relate to claims against a party other than Defendant Lo-Q. To the extent that a response is required, Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of these paragraphs.

**SECOND CAUSE OF ACTION
(Against Defendant Six Flags- Assault)**

57-65 Defendant Lo-Q need not respond to the allegations in Paragraphs 57-65 as they relate to claims against a party other than Defendant Lo-Q. To the extent that a response is required, Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of these paragraphs.

**THIRD CAUSE OF ACTION
(Against Defendant Six Flags- Intentional Infliction
of Severe Emotional Distress)**

66-75 Defendant Lo-Q need not respond to the allegations in Paragraphs 57-65 as they relate to claims against a party other than Defendant Lo-Q. To the extent that a response is required, Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of these paragraphs.

**FOURTH CAUSE OF ACTION
(Against Defendant Lo-Q- Breach of Contract)**

- 76. Defendant Lo-Q restates its response to the relevant numbered allegations of this paragraph.
- 77. Defendant Lo-Q admits that Plaintiff paid an amount for access to and use of Flash Pass. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the remaining allegations of this paragraph.
- 78. Defendant Lo-Q admits that in exchange for payment, Plaintiff would enjoy benefits of the Flash Pass system. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the remaining allegations of this paragraph.
- 79. Defendant Lo-Q denies the allegations of this paragraph.
- 80. Defendant Lo-Q denies the allegations of this paragraph.
- 81. Defendant Lo-Q denies the allegations of this paragraph.

82. Defendant Lo-Q denies the allegations of this paragraph.

83. Defendant Lo-Q denies the allegations of this paragraph.

**FIFTH CAUSE OF ACTION
(Against Defendant Lo-Q- False Imprisonment)**

84. Defendant Lo-Q restates its response to the relevant numbered allegations of this paragraph.

85. Defendant Lo-Q denies the allegations of this paragraph.

86. Defendant Lo-Q denies the allegations of this paragraph.

87. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

88. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

89. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

90. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

91. Defendant Lo-Q denies that Plaintiff was detained or confined against his will. The remaining allegations of this paragraph are conclusions of law for the Court to decide. To the extent that a response is required, Defendant Lo-Q denies the remaining allegations of this paragraph.

92. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

93. Defendant Lo-Q is without sufficient knowledge or information to admit or deny whether Plaintiff was unlawfully detained or confined. Defendant Lo-Q denies the remaining allegations of this paragraph.

**SIXTH CAUSE OF ACTION
(Against Defendant Lo-Q- Assault)**

94. Defendant Lo-Q restates its response to the relevant numbered allegations of this paragraph.

95. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

96. Defendant Lo-Q denies the allegations of this paragraph.

97. Defendant Lo-Q denies the allegations of this paragraph.

98. Defendant Lo-Q denies the allegations of this paragraph.

99. Defendant Lo-Q denies that Plaintiff was assaulted or confined against his will. The remaining allegations of this paragraph are conclusions of law for the Court to decide. To the extent that a response is required, Defendant Lo-Q denies the remaining allegations of this paragraph.

100. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

101. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

102. Defendant Lo-Q denies the allegations of this paragraph.

**SEVENTH CAUSE OF ACTION
(Against Defendant Lo-Q
Intentional Infliction of Severe Emotional Distress)**

103. Defendant Lo-Q restates its response to the relevant numbered allegations of this paragraph.

104. Defendant Lo-Q denies the allegations of this paragraph.

105. Defendant Lo-Q denies the allegations of this paragraph.

106. Defendant Lo-Q denies the allegations of this paragraph.

107. Defendant Lo-Q denies the allegations of this paragraph.

108. Defendant Lo-Q denies the allegations of this paragraph.

109. Defendant Lo-Q denies the allegations of this paragraph.

110. Defendant Lo-Q denies the allegations of this paragraph.

111. Defendant Lo-Q denies the allegations of this paragraph.

112. Defendant Lo-Q denies the allegations of this paragraph.

**EIGHTH CAUSE OF ACTION
(Against Defendant Six Flags and Defendant Lo-Q
Violations of New Jersey Consumer Fraud Act)**

113. Defendant Lo-Q restates its response to the relevant numbered allegations of this paragraph.

- 114. Defendant Lo-Q denies the allegations of this paragraph.
- 115. Defendant Lo-Q denies the allegations of this paragraph.
- 116. Defendant Lo-Q denies the allegations of this paragraph.
- 117. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
- 118. Defendant Lo-Q admits that Defendant Six Flags receives payment in connection with Flash Pass, but denies any characterization of the payment or its calculation. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the remaining allegations of this paragraph.
- 119. Defendant Lo-Q denies the allegations of this paragraph.
- 120. Defendant Lo-Q denies the allegations of this paragraph.
- 121. Defendant Lo-Q denies the allegations of this paragraph.
- 122. Defendant Lo-Q denies the allegations of this paragraph.
- 123. Defendant Lo-Q denies the allegations of this paragraph.
- 124. Defendant Lo-Q denies the allegations of this paragraph.
- 125. Defendant Lo-Q denies the allegations of this paragraph.

AS TO CLASS ALLEGATIONS

- 126. Defendant Lo-Q admits that Plaintiff brings this action individually, and that Plaintiff is attempting to bring this action as a class action. Defendant Lo-Q denies the remaining allegations of this paragraph.

As to Class Definition

- 127. Defendant Lo-Q admits that Plaintiff is attempting to represent a class of customers, but denies that any valid class of customers exists sufficient to support any alleged class action claims of the Plaintiff.
- 128. Defendant Lo-Q denies the allegations of this paragraph.
- 129. Defendant Lo-Q denies the allegations of this paragraph.
- 130. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
- 131. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.
- 132. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

As to Numerosity

- 133. Defendant Lo-Q denies the allegations of this paragraph.
- 134. Defendant Lo-Q denies the allegations of this paragraph.
- 135. Defendant Lo-Q denies the allegations of this paragraph.

As to Adequacy of Representation

- 136. Defendant Lo-Q denies the allegations of this paragraph.
- 137. Defendant Lo-Q denies the allegations of this paragraph.

As to Commonality

138. Defendant Lo-Q denies the allegations of this paragraph.

As to Typicality

139. Defendant Lo-Q denies the allegations of this paragraph.

140. Defendant Lo-Q denies the allegations of this paragraph.

141. Defendant Lo-Q denies the allegations of this paragraph.

142. Defendant Lo-Q denies the allegations of this paragraph.

As to Superiority

143. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

144. Defendant Lo-Q denies the allegations of this paragraph.

145. Defendant Lo-Q denies the allegations of this paragraph.

146. Defendant Lo-Q denies the allegations of this paragraph.

147. Defendant Lo-Q denies the allegations of this paragraph.

148. Defendant Lo-Q denies the allegations of this paragraph.

149. Defendant Lo-Q denies the allegations of this paragraph.

150. Defendant Lo-Q is without sufficient knowledge or information to admit or deny the allegations of this paragraph.

ADDITIONAL AND AFFIRMATIVE DEFENSES

151. The Complaint fails to state a claim upon which relief may be granted.

152. This court lacks personal jurisdiction over Defendant Lo-Q.
153. Any alleged claims Plaintiff may have arising out of the transactions referenced in the Complaint lie against a party other than Defendant Lo-Q.
154. To the extent discovery of the evidence may show, Plaintiff's claims are barred by waiver.
155. To the extent discovery of the evidence may show, Plaintiff's claims are barred by estoppel.
156. To the extent discovery of the evidence may show, Plaintiff's claims are limited or unavailable because the Plaintiff failed to take reasonable action in mitigation of his claimed injury and damages.
157. An award of punitive damages would violate the constitutional rights of Defendant Lo-Q.
158. Subject to its defense that there is no personal jurisdiction over Defendant Lo-Q, this Defendant claims the benefits of New York C.P.L.R. §4545.
159. To the extent Plaintiff's claims can be established in any amount, the Plaintiff's recovery, if any, is limited or unavailable based on the contributory and/or comparative negligence and apportionment provisions of New Jersey Statute §§2A:15-5.1, 2A:15-5.3, and 2A:15-5.14.
160. All other allegations not expressly admitted, denied or otherwise answered are denied.

WHEREFORE Defendant Lo-Q prays:

(a) That Plaintiff's Complaint be dismissed in its entirety with all costs assessed against Plaintiff;

(b) That Defendant Lo-Q have such other and further relief as the Court deems just and proper.

Respectfully submitted, this August 19, 2010.

s/ _____
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s/ _____
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